

107TH CONGRESS
1ST SESSION

H. R. 3584

To amend title XVIII of the Social Security Act to improve payments and regulation under the Medicare+Choice Program.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2001

Mrs. JOHNSON of Connecticut (for herself, Mr. CARDIN, Mr. ISRAEL, Mr. SMITH of New Jersey, Mr. HAYWORTH, Mr. RAMSTAD, Mr. SAM JOHNSON of Texas, Mr. SHAW, Mr. ENGLISH, Mr. LoBiondo, Mr. FERGUSON, Ms. DUNN of Washington, Mr. CRANE, Mr. SAXTON, Mr. CAMP, Mrs. MCCARTHY of New York, Mr. PASCRELL, Mr. HERGER, Mr. SIMMONS, Mr. MCCRERY, Mr. LARSEN of Washington, and Mr. DICKS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to improve payments and regulation under the Medicare+Choice Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Medicare+Choice Improvement and Stabilization Act of
4 2001”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Payment reforms for 2003.
- Sec. 3. Change in Medicare+Choice reporting deadlines and annual, coordinated election period and delay in lock-in provisions.
- Sec. 4. Avoiding duplicative State regulation.
- Sec. 5. Demonstration projects for preferred provider organizations, point-of-service plans, MSA plans, and disease management programs.
- Sec. 6. Suspension of limitation for program reentry for 2003 and 2004.
- Sec. 7. Specialized Medicare+Choice plans for special needs beneficiaries.

7 **SEC. 2. PAYMENT REFORMS FOR 2003.**

8 (a) PAYMENT BASED ON 100 PERCENT OF FEE-FOR-
9 SERVICE COSTS.—

10 (1) IN GENERAL.—Section 1853(c)(1) of the
11 Social Security Act (42 U.S.C. 1395w–23(c)(1)) is
12 amended by adding at the end the following:

13 “(D) BASED ON 100 PERCENT OF FEE-
14 FOR-SERVICE COSTS FOR 2003.—For 2003 only,
15 the adjusted average per capita cost for that
16 year, determined under section 1876(a)(4) for
17 the Medicare+Choice payment area for services
18 covered under parts A and B for individuals en-
19 titled to benefits under part A and enrolled
20 under part B who are not enrolled in a
21 Medicare+Choice plan under this part for the

1 year, subject to the same adjustment as is pro-
2 vided to the annual per capita rate payment
3 under paragraph (3)(B).”.

4 (2) CONFORMING AMENDMENT.—Such section
5 is further amended in the matter before subpara-
6 graph (A), by striking “or (C)” and inserting “(C),
7 or (D)”.

8 (b) REVISION OF NATIONAL AVERAGE USED IN CAL-
9 CULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) of
10 such Act (42 U.S.C. 1395w–23(c)(4)(B)(i)(II)) is amend-
11 ed by inserting “who (with respect to determinations for
12 2003) are enrolled in a Medicare+Choice plan” after “the
13 average number of medicare beneficiaries”.

14 (c) ELIMINATION OF BUDGET NEUTRALITY.—Sec-
15 tion 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is
16 amended—

17 (1) in paragraph (1)(A), by inserting “(for a
18 year other than 2003)” after “multiplied”; and

19 (2) in paragraph (5), by inserting “(other than
20 2003)” after “for each year”.

1 **SEC. 3. CHANGE IN MEDICARE+CHOICE REPORTING DEAD-**
 2 **LINES AND ANNUAL, COORDINATED ELEC-**
 3 **TION PERIOD AND DELAY IN LOCK-IN PROVI-**
 4 **SIONS.**

5 (a) CHANGE IN REPORTING DEADLINE.—Section
 6 1854(a)(1) of the Social Security Act (42 U.S.C. 1395w–
 7 24(a)(1)) is amended by striking “July 1” and inserting
 8 “the third Monday in September”.

9 (b) DELAY IN ANNUAL, COORDINATED ELECTION
 10 PERIOD.—Section 1851(e)(3)(B) of such Act (42 U.S.C.
 11 1395w–21(e)(3)(B)) is amended by striking “(beginning
 12 with 2000), the month of November before such year” and
 13 inserting “, the period beginning on November 15 and
 14 ending on December 31 of the year before such year”.

15 (c) 1-YEAR DELAY IN LOCK-IN.—Section 1851(e) of
 16 such Act (42 U.S.C. 1395w–21(e)) is amended—

17 (1) in paragraph (2)(A)—

18 (A) by striking “and 2001,” and inserting
 19 “, 2001, and 2002”; and

20 (B) in the heading, by striking “2001” and
 21 inserting “2002”;

22 (2) in paragraph (2)(B)—

23 (A) in clause (i), by striking “2002” each
 24 place it appears and inserting “2003”; and

25 (B) in the heading that precedes clause (i),
 26 by striking “2002” and inserting “2003”;

1 (3) in paragraph (2)(C)(i), by striking “2002”
2 each place it appears and inserting “2003”; and
3 (4) in paragraph (4)—
4 (A) in the matter preceding subparagraph
5 (A), by striking “2002” and inserting “2003”;
6 and
7 (B) in the second sentence, by striking
8 “2002” and inserting “2003”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on January 1, 2002.

11 **SEC. 4. AVOIDING DUPLICATIVE STATE REGULATION.**

12 (a) IN GENERAL.—Section 1856(b)(3) of the Social
13 Security Act (42 U.S.C. 1395w–26(b)(3)) is amended to
14 read as follows:

15 “(3) RELATION TO STATE LAWS.—The stand-
16 ards established under this subsection shall super-
17 sede any State law or regulation (other than State
18 licensing laws or State laws relating to plan sol-
19 vency) with respect to Medicare+Choice plans which
20 are offered by Medicare+Choice organizations under
21 this part.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act.

1 **SEC. 5. DEMONSTRATION PROJECTS FOR PREFERRED PRO-**
2 **VIDER ORGANIZATIONS, POINT-OF-SERVICE**
3 **PLANS, MSA PLANS, AND DISEASE MANAGE-**
4 **MENT PROGRAMS.**

5 (a) IN GENERAL.—The Secretary of Health and
6 Human Services shall conduct a demonstration program
7 (in this section referred to as the “demonstration pro-
8 gram”) under which payment rules to Medicare+Choice
9 organizations under section 1853 of the Social Security
10 Act are modified in order to promote the offering of
11 Medicare+Choice plans by preferred provider organiza-
12 tions under the Medicare+Choice program, the offering
13 of Medicare+Choice plans that provide point-of-service
14 coverage for other than participating providers, and the
15 offering of MSA plans and to promote the use of disease
16 management programs by Medicare+Choice plans.

17 (b) PROJECTS.—Under the demonstration program,
18 the Secretary shall provide for 10 demonstration projects.
19 Each project shall extend over a period of not to exceed
20 3 years. Of the demonstration projects conducted under
21 the demonstration, to the extent feasible, at least one such
22 project shall promote the offering of a Medicare+Choice
23 plan by a preferred provider organization, at least one
24 project shall promote the offering of a Medicare+Choice
25 plan that provides point-of-service coverage for other than

1 participating providers, and at least two projects shall pro-
2 mote the offering of a MSA plan.

3 (c) RISK-SHARING ARRANGEMENTS.—Under the
4 demonstration program, the Secretary may provide for the
5 assumption of portions of the financial risk under a split
6 or partial risk-sharing arrangement.

7 (d) WAIVER AUTHORITY.—The Secretary is author-
8 ized to waive such provisions of section 1853 of the Social
9 Security Act (and related provisions of part C of title
10 XVIII of such Act) as the Secretary determines to be nec-
11 essary to conduct the demonstration program under this
12 section.

13 (e) EVALUATION AND REPORT.—

14 (1) EVALUATION.—The Secretary shall provide
15 for an evaluation of the demonstration program con-
16 ducted under this section and its impact on enroll-
17 ment, particularly in areas not previously served by
18 Medicare+Choice plans.

19 (2) REPORT.—The Secretary shall submit to
20 Congress a report on the demonstration program
21 and its evaluation. Such report shall include an as-
22 sessment of the costs and savings to the medicare
23 program as a result of the demonstration program
24 and may include such recommendations for changes

1 in the Medicare+Choice program as the Secretary
 2 deems appropriate.

3 **SEC. 6. SUSPENSION OF LIMITATION FOR PROGRAM RE-**
 4 **ENTRY FOR 2003 AND 2004.**

5 Section 1857(c)(4) of the Social Security Act (42
 6 U.S.C. 1395w-27(c)(4)) is amended—

7 (1) in subparagraph (A), by striking “subpara-
 8 graph (B)” and inserting “subparagraphs (B) and
 9 (C)”; and

10 (2) by adding at the end the following new sub-
 11 paragraph:

12 “(C) APPLICABILITY IN CERTAIN YEARS.—

13 Subparagraph (A) shall not apply for contracts
 14 entered into for contract year 2003 or 2004.”.

15 **SEC. 7. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPE-**
 16 **CIAL NEEDS BENEFICIARIES.**

17 (a) TREATMENT AS COORDINATED CARE PLAN.—

18 Section 1851(a)(2)(A) of the Social Security Act (42
 19 U.S.C. 1395w-21(a)(2)(A)) is amended by adding at the
 20 end the following new sentence: “Specialized
 21 Medicare+Choice plans for special needs beneficiaries (as
 22 defined in section 1859(b)(4)) may be any type of coordi-
 23 nated care plan.”.

24 (b) SPECIALIZED MEDICARE+CHOICE PLAN FOR
 25 SPECIAL NEEDS BENEFICIARIES DEFINED.—Section

1 1859(b) of such Act (42 U.S.C. 1395w–29(b)) is amended
2 by adding at the end the following new paragraph:

3 “(4) SPECIALIZED MEDICARE+CHOICE PLANS
4 FOR SPECIAL NEEDS BENEFICIARIES.—

5 “(A) IN GENERAL.—The term ‘specialized
6 Medicare+Choice plan for special needs bene-
7 ficiaries’ means a Medicare+Choice plan that
8 exclusively serves special needs beneficiaries (as
9 defined in subparagraph (B)).

10 “(B) SPECIAL NEEDS BENEFICIARY.—The
11 term ‘special needs beneficiary’ means a
12 Medicare+Choice eligible individual who—

13 “(i) is institutionalized (as defined by
14 the Secretary);

15 “(ii) is entitled to medical assistance
16 under a State plan under title XIX; or

17 “(iii) meets such requirements as the
18 Secretary may determine would benefit
19 from enrollment in such a specialized
20 Medicare+Choice plan described in sub-
21 paragraph (A) for individuals with severe
22 or disabling chronic conditions.”.

23 (c) RESTRICTION ON ENROLLMENT PERMITTED.—
24 Section 1859 of such Act (42 U.S.C. 1395w–29) is

1 amended by adding at the end the following new sub-
2 section:

3 “(f) RESTRICTION ON ENROLLMENT FOR SPECIAL-
4 IZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS
5 BENEFICIARIES.—In the case of a specialized
6 Medicare+Choice plan (as defined in subsection (b)(4)),
7 notwithstanding any other provision of this part and in
8 accordance with regulations of the Secretary and for peri-
9 ods before January 1, 2007, the plan may restrict the en-
10 rollment of individuals under the plan to individuals who
11 are within one or more classes of special needs bene-
12 ficiaries.”.

13 (d) REPORT TO CONGRESS.—Not later than Decem-
14 ber 31, 2005, the Secretary of Health and Human Serv-
15 ices shall submit to Congress a report that assesses the
16 impact of specialized Medicare+Choice plans for special
17 needs beneficiaries on the cost and quality of services pro-
18 vided to enrollees. Such report shall include an assessment
19 of the costs and savings to the medicare program as a
20 result of amendments made by subsections (a), (b), and
21 (c).

22 (e) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
24 subsections (a), (b), and (c) shall take effect upon
25 the date of the enactment of this Act.

1 (2) DEADLINE FOR ISSUANCE OF REQUIRE-
2 MENTS FOR SPECIAL NEEDS BENEFICIARIES; TRAN-
3 SITION.—No later than September 1, 2002, the Sec-
4 retary of Health and Human Services shall issue
5 final regulations to establish requirements for special
6 needs beneficiaries under section 1859(b)(4)(B)(iii)
7 of the Social Security Act, as added by subsection
8 (b).

9 (f) EXTENSION OF MUNICIPAL HEALTH SERVICE
10 DEMONSTRATION PROJECTS.—The last sentence of sec-
11 tion 9215(a) of the Consolidated Omnibus Budget Rec-
12 onciliation Act of 1985 (42 U.S.C. 1395b–1 note), as pre-
13 viously amended, is amended by striking “December 31,
14 2004, but only with respect to” and all that follows and
15 inserting “December 31, 2009, but only with respect to
16 individuals who reside in the city in which the project is
17 operated and so long as the total number of individuals
18 participating in the project does not exceed the number
19 of such individuals participating as of January 1, 1996.”.

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